

No claim for credit can be approved unless the claimant shows that he has borne the burden of the tax or has unconditionally refunded the amount of the tax to the customers from whom it was collected. See 86 Ill. Adm. Code 130.1501. (This is a GIL).

February 17, 1999

Dear Mrs. Xxxxx:

This letter is in response to your letter dated January 27, 1999. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

We purchased a range from BUSINESS. The range had many service calls and was a poor design for safety. The manufacturer agreed to buy back the range. They were not the collector of the retailer's Occup. Tax, ect for Illinois. They did not refund any of the tax.

Please find attached the copies of my billing from BUSINESS and the refund check from COMPANY. Please advise after review of these enclosures, the procedure for the refund of my tax. Thank you for your consideration.

If taxpayers pay amounts of taxes under the Retailers' Occupation Tax Act that are not due, either as a result of a mistake of fact or an error of law, the taxpayers may file claims for credit with the Department. No credit shall be given the taxpayers unless they show that they have borne the burden of the tax or have unconditionally repaid the amount of the tax to their customers from whom it was collected. See the enclosed copy of 86 Ill. Adm. Code 130.1501. The claims for credit must be prepared and filed upon forms provided by the Department containing the information listed in Section 130.1501(b). Taxpayers should not make adjustments on their next return or amend the return for the period in which the overpayment occurred.

Under Illinois sales tax laws, retailers are not required to file claims for credit. The Department has no authority to compel sellers to file a claim for credit. Whether or not sellers refund the taxes paid and file claims for credit with the Department is a private matter between sellers and purchasers.

The statute of limitations for filing claims for credit is described in Section 130.1501(a)(4). The language is somewhat confusing but, boiled down, it means that the statute of limitations is 3 to 3 1/2 years and expires in 6 month

ST 99-0078-GIL

blocks. For example, on July 1, 1994, the statute of limitations expired for claims to recover taxes that were erroneously paid in the first 6 months of 1991.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis  
Associate Counsel

MAJ:msk  
Enc.